

REMARKS

Applicants have carefully reviewed the Final Office Action dated November 1, 2006 and the Advisory Action mailed January 23, 2007. Applicants respectfully traverse all objections, rejections, and assertions made by the Examiner. With this amendment and request for continued examination, claims 4 and 15 are amended. No new matter is added. Please cancel claims 1-3, 5-14, and 16-24 without prejudice. Claims 4 and 15 remain pending.

Claims 1-3, 5, 12-14, 16, 23, and 24 are rejected under 35 U.S.C. §102(b) as being anticipated by Lary in U.S. Patent No. 6,306,151. Without conceding the merits of the rejection, please note that claims 1-3, 5, 12-14, 16, 23, and 24 are now cancelled without prejudice, rendering the rejection moot. Applicants reserve the right to pursue these claims or claims of a similar scope in the future.

Claim 12 is rejected under 35 U.S.C. §102(b) as being anticipated by Vigil et al. in U.S. Patent No. 5,336,234. As indicated above, claim 12 is now cancelled, rendering the rejection moot.

Claims 1 and 24 are rejected under 35 U.S.C. §102(b) as being anticipated by Vigil et al. in U.S. Patent No. 5,320,634. As indicated above, claims 1 and 24 are now cancelled, rendering the rejection moot.

Claims 20-22 are rejected under 35 U.S.C. §102(b) as being anticipated by Barath in U.S. Patent No. 5,797,935. Without conceding the merits of the rejection, please note that claims 20-22 are now cancelled without prejudice, rendering the rejection moot. Applicants reserve the right to pursue these claims or claims of a similar scope in the future.

Claims 9-11 and 20-22 are rejected under 35 U.S.C. §102(b) as being anticipated by Barath in U.S. Patent No. 5,616,149. Without conceding the merits of the rejection, please note that claims 9-11 are now cancelled without prejudice, rendering the rejection of these claims moot. Applicants reserve the right to pursue these claims or claims of a similar scope in the future. Similarly, please note that as indicated above, claims 20-22 are now cancelled rendering the rejection of these claims moot.

Claims 4, 6, 8, 15, 17 and 19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Lary in view of Grayzel et al. in U.S. Patent No. 6,942,680. Without conceding the merits of the rejection, please note that claims 6, 8, 17 and 19 are now cancelled without prejudice,

rendering the rejection of these claims moot. Applicants reserve the right to pursue these claims or claims of a similar scope in the future.

Regarding claims 4 and 15, both of these claims are now re-written as independent claims and further amended to recite that the one or more cutting member (or cutting blades as recited in claim 15) are affixed to the balloon, that the cutting members/blade have a longitudinal axis, and that the undulations curve from side-to-side relative to the longitudinal axis. Neither of the cited references teach or suggest these limitations. For example, and as stated by the Examiner, Lary fails to teach or suggest side-to-side undulations. Furthermore, the stiffening members 260/280 that the Examiner referred to in the Advisory Action (e.g., in Figures 7D/7F) as showing side-to-side undulations do not undulate from side-to-side relative to the longitudinal axis of the “cutting members”. Moreover, the stent 70 in Grayzel et al., which the Examiner has attempted to equate with the claimed cutting member, is not affixed to the balloon, nor would it function if it was affixed. Therefore, even if these features in Grayzel et al. were interpreted as meeting the limitations of claims 4 and/or 15, Grayzel et al. teach away from combining the teachings therein with Lary. Based on these differences, Applicants respectfully submit that the cited references, even when combined, do not teach or suggest all the claim limitations. Furthermore, Grayzel et al. teach away from such a combination. Consequently, amended claims 4 and 15 are believed to be in condition for allowance.

Claims 6-7 and 17-18 are rejected under 35 U.S.C. §103(a) as being unpatentable over Lary in view of Bradshaw U.S. Patent No. 6,450,988. As indicated above, please note that claims 6 and 17 are now cancelled, rendering the rejection of these claims moot. Furthermore, without conceding the merits of the rejection, please note that claims 7 and 18 are now cancelled without prejudice, rendering the rejection of these claims moot. Applicants reserve the right to pursue these claims or claims of a similar scope in the future.

Claims 1-8 and 12-19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of co-pending U.S. Patent Application No. 10/447,766. Of the provisionally rejected claims, only claims 4 and 15 remain pending. These claims each recite a cutting member/blade with undulations that curve side-to-side relative to the longitudinal axis of the cutting member/blade. While the claims of U.S. Patent Application No. 10/447,766 include a recitation of an undulation, the claimed undulations therein are made in reference to the balloon and not to the cutting members.

Because the claims of U.S. Patent Application No. 10/447,766 can be distinguished from those of the instant application, Applicants respectfully submit that this obviousness-type double patenting rejection is improper and it should be withdrawn in due course.

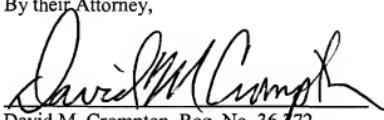
Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Karen M. Cheves et al.

By their Attorney,

Date: 2/28/07


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